

Message

From: Matsumoto, Kimi [Matsumoto.Kimi@epa.gov]
Sent: 5/17/2017 6:35:13 PM
To: Sutin, Elyana [Sutin.Elyana@epa.gov]; Schefski, Kenneth [Schefski.Kenneth@epa.gov]
CC: Chin, Lucita [Chin.Lucita@epa.gov]
Subject: RE: Email chain with SD Game, Fish and Parks on ESA consultation

Deliberative/attorney work product

Hi Elyana –

Ex. 5 AC/AWP/DP

Thanks, Kimi

From: Sutin, Elyana
Sent: Wednesday, May 17, 2017 12:31 PM
To: Matsumoto, Kimi <Matsumoto.Kimi@epa.gov>; Schefski, Kenneth <Schefski.Kenneth@epa.gov>
Cc: Chin, Lucita <Chin.Lucita@epa.gov>
Subject: RE: Email chain with SD Game, Fish and Parks on ESA consultation

Kimi,

Ex. 5 AC/AWP/DP

Elyana R. Sutin
Deputy Regional Counsel
US EPA, Region 8
303.312.6899

From: Matsumoto, Kimi
Sent: Wednesday, May 17, 2017 10:40 AM
To: Schefski, Kenneth <Schefski.Kenneth@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>
Cc: Chin, Lucita <Chin.Lucita@epa.gov>
Subject: FW: Email chain with SD Game, Fish and Parks on ESA consultation

Deliberative/attorney work product/attorney-client privileged

Hello –

Ex. 5 AC/AWP/DP

Thanks, Kimi

From: Shea, Valois
Sent: Wednesday, May 17, 2017 10:14 AM

To: Matsumoto, Kimi <Matsumoto.Kimi@epa.gov>

Subject: FW: Email chain with SD Game, Fish and Parks on ESA consultation

Hi Kimi,

I just wanted to give you a heads-up that Stan Michals from SD Game, Fish and Parks has contacted me regarding ESA consultation. There is no need for you to read the whole email chain now. Douglas suggested I let Stan know we are still doing internal analysis and will get with him and USF&W after the public comment period is over. (That is the latest message below.) It looks like Stan has concerns about the ponds, which I know has been an internal topic of discussion as well.

I think I will be picking up the ESA process where Bruce left off. We can talk more once the extended public comment period is over on June 19. Stan may be providing us with public comments in advance of consultation.

Thanks!

Valois

Valois Shea

U.S. EPA Region 8

MailCode: 8WP-SUI

1595 Wynkoop Street

Denver, CO 80202-1129

Phone: (303) 312-6276

Fax: (303) 312-6741

Email: shea.valois@epa.gov

From: Shea, Valois

Sent: Wednesday, May 17, 2017 10:07 AM

To: 'Michals, Stan' <Stan.Michals@state.sd.us>

Subject: RE: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits - EPA has extended the public comment period through June 19

Hi Stan,

I just spoke with my supervisor about where we are with ESA. We are still doing some internal analysis, but plan to get with you and USF&W after the public comment period is over to discuss our findings and our plan for engaging with both agencies.

We are waiting until after the public comment period of over because dealing with the comments is taking all my time right now! I will be able to focus better on ESA again once that is over.

Thanks!

Valois

Valois Shea

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Phone: (303) 312-6276

Fax: (303) 312-6741
Email: shea.valois@epa.gov

From: Michals, Stan [<mailto:Stan.Michals@state.sd.us>]
Sent: Wednesday, May 17, 2017 9:14 AM
To: Shea, Valois <Shea.Valois@epa.gov>
Subject: RE: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits - EPA has extended the public comment period through June 19

Morning Valois

144.4 includes state wildlife agency consultation as well as federal ESA. Was that consultation complete with sending SD GF&P the notice back in March 2017 or should we expect something more formal? GF&P intends to submit comments as a part of the scoping/public hearings. Submitting comments ensure our concerns are recognized but if you require consultation with us that also offers a better opportunity to present them.

Thanks for your help.

Stan

From: Shea, Valois [<mailto:Shea.Valois@epa.gov>]
Sent: Wednesday, May 17, 2017 9:00 AM
To: Michals, Stan
Cc: Suchomel, Bruce
Subject: RE: [EXT] Dewey-Burdock Class III and Class V Injection Well Draft Area Permits - EPA has extended the public comment period through June 19

Hi Stan,

First I want to let you know that the EPA has extended the public comment period through June 19, so we have some time to talk about consultation under § 144.4.

Those radon settling ponds are considered to be impoundments. Bruce Suchomel has been working on the ESA consultation. Would you like me to set up a call later this week so we can talk about the work Bruce has done?

Thanks!

Valois

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Email: shea.valois@epa.gov

From: Michals, Stan [<mailto:Stan.Michals@state.sd.us>]
Sent: Tuesday, May 16, 2017 4:58 PM
To: Shea, Valois <Shea.Valois@epa.gov>
Subject: RE: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Thanks,

Are the Dewey Burdock radon settling ponds considered an impoundment and if so will 144.4 apply? I am debating options of sending comments or requesting 144 consultation. I see you provided a telephone number in your last email message. I can call you with this question if it necessitates a lengthy discussion.

§ 144.4 Considerations under Federal law.

(e) The *Fish and Wildlife Coordination Act*, 16 U.S.C. 661 *et seq.*, requires the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State agency exercising jurisdiction over wildlife

Stan

From: Shea, Valois [<mailto:Shea.Valois@epa.gov>]

Sent: Tuesday, May 16, 2017 1:36 PM

To: Michals, Stan

Subject: RE: [EXT] Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Hi Stan,

The UIC Program is not required to do a NEPA analysis for our permitting actions, so therefore, the Administrative Record does not provide analysis of various alternatives such as No Action or alternative actions. Under the UIC regulation 40 CFR §144.33 (c)(3) *The cumulative effects of drilling and operation of additional injection wells are considered by the Director during evaluation of the area permit application and are acceptable to the Director.* That is why we have the Draft Cumulative Effects Analysis document for the area permits on the record for review and comment.

The NRC SEIS evaluated the No Action and alternative actions. That document can be found at:

<https://www.nrc.gov/docs/ML1402/ML14024A477.pdf>

Valois

Valois Shea

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Email: shea.valois@epa.gov

From: Michals, Stan [<mailto:Stan.Michals@state.sd.us>]

Sent: Tuesday, May 16, 2017 12:57 PM

To: Shea, Valois <Shea.Valois@epa.gov>

Subject: RE: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Hi Valois,

A NEPA related question for you:

Will EPA's "decision" / Administrative Record provide analysis of various alternatives? That is, consideration of No Action (no permit), and alternative actions (permit with various conditions).
Thank you,

Stan

From: Michals, Stan

Sent: Friday, March 24, 2017 3:06 PM

To: 'shea.valois@epa.gov'

Subject: Dewey-Burdock Class III and Class V Injection Well Draft Area Permits

Hi Valois,

I am reviewing information provided for in the 'Public Notice: Administrative Record for the Dewey-Burdock Class III and Class V Injection Well Draft Area Permits' <https://www.epa.gov/uic/administrative-record-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits> . I'm unclear if the "Additional Administrative Record Documents", specifically, the 'Draft Cumulative Effects Analysis' are considered a component of the Class III and V draft permits and thus subject to review and comments. The statement below is copied from the website and if read literally, it could be understood to mean that comments are sought only for the Class III and V draft area permits, and the identification of traditional cultural properties...My agency would like to provide comments on both the contents of the permits and Draft Cumulative Effects Analysis. Please provide us with an explanation of the scope of EPA's request.

In addition to seeking comments on the Class III and V draft area permits, the EPA is seeking public comment on the identification of traditional cultural properties at the Dewey-Burdock Project Site Area of Potential Effects, on the potential adverse effects of the proposed project, and on measures to avoid, minimize or mitigate potential adverse effects on historic and traditional cultural properties pursuant to Section 106 of the National Historic Preservation Act and 36 CFR § 800.2(d) and § 800.6(a)(4).

The EPA is also seeking comment on two options for approval of the aquifer exemption that Powertech requested related to the Class III permit application. The two options are discussed in the Aquifer Exemption Draft Record of Decision available on the EPA Region 8 UIC Program website.

The EPA has performed an Environmental Justice (EJ) analysis for the Dewey-Burdock UIC permitting actions and is seeking comment on the Draft EJ analysis document.

Thank you,

Stan Michals -Energy and Minerals Coordinator
SD/Game, Fish and Parks
4130 Adventure Trail
Rapid City, SD 57702
Office (605)394-2589
Fax (605)394-1793
Stan.Michals@state.sd.us

"Serving People, Managing Wildlife"

The Division of Wildlife will manage South Dakota's wildlife and fisheries resources and their associated habitats for their sustained and equitable use, and for the benefit, welfare, and enjoyment of the citizens of this state and its visitors.

